


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**  
MAR 03 2005

  
CLERK

UNITED STATES OF AMERICA,  
Plaintiff,

v.

REYES FABIAN OLIVERA-MENDEZ,  
Defendant.

Case No. 4:05 CR 40016

**DEFENDANTS MOTION TO COMPEL DISCOVERY**

REYES FABIAN OLIVERA-MENDEZ, by and through his counsel, respectfully moves this Honorable Court, pursuant to Federal Rule of Criminal Procedure 16 and the Jenks Act (18 U.S.C.A. § 3500), to grant discovery relating to the narcotics dog and in support states as follows:

1. OLIVERA-MENDEZ is charged with one count of possession of cocaine in a case arising out of a traffic stop.
2. According to the police reports, law official agents were alerted to the presence of drugs in the vehicle by use of a drug sniffing canine. (Koltz Report, p.1).
3. To establish probable cause, it is necessary that a "well-trained narcotics-detection dog" conduct the exterior search of the vehicle. *Illinois v. Caballes*, 125 S.Ct. 834, 838 (2005). If the dog is not reliable, than probable cause is not established and any evidence deriving there from must be suppressed. *See United States v. Gregory*, 302 F.3d 805 (8<sup>th</sup> Cir. 2002).
4. OLIVERA-MENDEZ requests that this court compel the government to provide all discovery materials pertaining to the dog, including but not limited to his handler's log, all training records and score sheets, certification records,

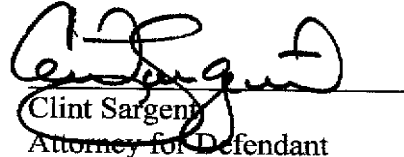
and training standards and manuals, as these materials go to the reliability of the dog.

WHEREFORE, Defendant respectfully prays this Honorable Court to Order The United States Attorney to furnish OLIVERA-MENDEZ with the requested discovery.

Respectfully Submitted,



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Attorney for Defendant



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Attorney for Defendant

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